

REMARKS

By this Amendment, Applicant proposes to amend the specification to update the status of the parent application and amend claims 27 and 28. No new matter has been added by this Amendment.

In the outstanding Office Action, claims 2-29 were rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over the claims of U.S. Patent No. 6,666,251. Page 2 of the Office Action states that “[a]lthough the conflicting claims are not identical, they are not patentably distinct from each other because the claims are drawn to a single inventive concept.” Applicant respectfully submits that this rejection does not meet the burden of presenting a *prima facie* case of obviousness, and that Applicant is therefore under no obligation to submit evidence of nonobviousness. However, in an effort to further prosecution, Applicant has submitted a Terminal Disclaimer herewith. Reconsideration is requested.

Claims 2-29 were rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for allegedly failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Specifically, the Office Action states that it is unclear whether the shade supporting plates are claimed in combination with the shade system. Applicant submits that the recitation in independent claims 27 and 28 of the shade supporting plates, as well as further limitations of the shade supporting plates in dependent claims, should make it clear that the shade supporting plates are claimed. However, in an effort to further prosecution, Applicant has amended independent claims 27 and 28 to specifically recite “a pair of shade supporting plates.” Reconsideration is requested.

Claims 2-8, 12, 16-18, 21, 23-25, 27, and 28 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 3,990,635 to Restle et al. ("Restle et al.") in view of U.S. Patent No. 1,491,919 to Nutter ("Nutter"). The Office Action asserts that Restle et al. discloses the invention as claimed except for the use of an end cap. The Office Action further asserts that Nutter discloses a shade system including end caps 6 configured to receive support plates 14 and that it would have been obvious to one of ordinary skill in the art to incorporate this teaching into the shade system of Restle et al. for the purpose of accommodating windows of various sizes.

Applicant respectfully traverses this rejection. Independent claim 27 recites in part "means for sealing the transparent shade and the top surface of the window frame" and independent claim 28 recites in part "a first sealing element configured to be positioned between the top surface of the window frame and the transparent shade." Restle et al. does not disclose or suggest use of a sealing element between the top surface of the window frame and the transparent shade. Nutter also does not disclose or suggest the use of a sealing element between the top surface of the window frame and the shade. For at least this reason, neither Restle et al. or Nutter, either alone or in combination, can anticipate or render obvious independent claims 27 and 28. Claims 2-8, 12, 16-18, 21, and 23-25 depend from claim 27 and are patentable over Restle et al. and Nutter, either alone or in combination, for at least the same reasons discussed above. Withdrawal of the rejection and allowance of claims 2-8, 12, 16-18, 21, 23-25, 27, and 28 is requested.

Claims 9-11, 13, and 14 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 3,990,635 to Restle et al. ("Restle et al.") in view of

U.S. Patent No. 1,491,919 to Nutter ("Nutter") as applied to claims 2-8, 12, 16-18, 21, 23-25, 27, and 28, and further in view of U.S. Patent No. 5,868,191 to Blackmon, Jr. ("Blackmon").

Applicant respectfully traverses this rejection. The Office Action relies on Blackmon for teaching the use of telescopic side rails cooperating with guide blocks. Even if Blackmon were combined with Restle et al. and Nutter as suggested by the Examiner, the invention as claimed would not result. As discussed above with regard to claims 27 and 28, neither Restle et al. nor Nutter disclose or suggest the use of a sealing element between the top surface of the window frame and the shade. Blackmon also does not disclose or suggest using a sealing element between the top surface of the window frame and the shade as required by independent claim 27. Claims 9-11, 13 and 14 depend from claim 27. For at least these reasons, Restle et al., Nutter, and Blackmon, individually or in combination, cannot anticipate or render obvious 9-11, 13 and 14. Withdrawal of the rejection and allowance of claims 9-11, 13 and 14 is requested.

Claims 19 and 20 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 3,990,635 to Restle et al. ("Restle et al.") in view of U.S. Patent No. 1,491,919 to Nutter ("Nutter") as applied to claims 2-8, 12, 16-18, 21, 23-25, 27, and 28, and further in view of U.S. Patent No. 4,597,430 to Marquez ("Marquez").

Applicant respectfully traverses this rejection. The Office Action relies on Marquez for teaching the use of pressure sensitive adhesive. Even if Marquez were combined with Restle et al. and Nutter as suggested by the Examiner, the invention as claimed would not result. As discussed above with regard to claims 27 and 28, neither

Restle et al., nor Nutter disclose or suggest the use of a sealing element between the top surface of the window frame and the shade. Marquez also does not disclose or suggest using a sealing element between the top surface of the window frame and the shade as required by independent claim 27. Claims 19 and 20 depend from claim 27. For at least these reasons, Restle et al., Nutter, and Marquez, individually or in combination, cannot anticipate or render obvious claims 19 and 20. Withdrawal of the rejection and allowance of claims 19 and 20 is requested.

Claim 22 was rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 3,990,635 to Restle et al. ("Restle et al.") in view of U.S. Patent No. 1,491,919 to Nutter ("Nutter") as applied to claims 2-8, 12, 16-18, 21, 23-25, 27, and 28, and further in view of U.S. Patent No. 4,357,978 to Keller et al. ("Keller et al.").

Applicant respectfully traverses this rejection. The Office Action relies on Keller et al. for teaching the use of a channel-shaped clip overlying a hem and a batten. Even if Keller et al. were combined with Restle et al. and Nutter as suggested by the Examiner, the invention as claimed would not result. As discussed above with regard to claims 27 and 28, neither Restle et al. nor Nutter disclose or suggest the use of a sealing element between the top surface of the window frame and the shade. Keller et al. also does not disclose or suggest using a sealing element between the top surface of the window frame and the shade as required by independent claim 27. Claim 22 depends from claim 27. For at least these reasons, Restle et al., Nutter, and Keller et al., individually or in combination, cannot anticipate or render obvious claim 22. Withdrawal of the rejection and allowance of claim 22 is requested.

Claim 26 was rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 3,990,635 to Restle et al. ("Restle et al.") in view of U.S. Patent No. 1,491,919 to Nutter ("Nutter") as applied to claims 2-8, 12, 16-18, 21, 23-25, 27, and 28, and further in view of U.S. Patent No. 4,369,829 to Casiday ("Casiday").

Applicant respectfully traverses this rejection. The Office Action relies on Casiday for teaching the use of first and second transparent shades. Even if Casiday were combined with Restle et al. and Nutter as suggested by the Examiner, the invention as claimed would not result. As discussed above with regard to claims 27 and 28, neither Restle et al. nor Nutter disclose or suggest the use of a sealing element between the top surface of the window frame and the shade. Casiday also does not disclose or suggest using a sealing element between the top surface of the window frame and the shade as required by independent claim 27. Claim 22 depends from claim 27. For at least these reasons, Restle et al., Nutter, and Casiday, individually or in combination, cannot anticipate or render obvious claim 26. Withdrawal of the rejection and allowance of claim 26 is requested.

Applicant respectfully requests that this Amendment under 37 C.F.R. § 1.116 be entered by the Examiner, placing claims 2-29 in condition for allowance. Applicant submits that the proposed amendments of claims 27 and 28 do not raise new issues or necessitate the undertaking of any additional search of the art by the Examiner, since all of the elements and their relationships claimed were either earlier claimed or inherent in the claims as examined. Therefore, this Amendment should allow for immediate action by the Examiner.

Furthermore, Applicant respectfully points out that the final Office Action by the Examiner presented some new arguments as to the application of the art against Applicant's invention. It is respectfully submitted that the entering of the Amendment would allow the Applicant to reply to the final rejections and place the application in condition for allowance.

Finally, Applicant submits that the entry of the amendment would place the application in better form for appeal, should the Examiner dispute the patentability of the pending claims.

The Office Action contains characterizations of the claims and the related art with which Applicants do not necessarily agree. Unless expressly noted otherwise, Applicants decline to subscribe to any statement or characterization in the Office Action.

In view of the foregoing remarks, Applicant submits that this claimed invention, as amended, is neither anticipated nor rendered obvious in view of the prior art references cited against this application. Applicant therefore requests the entry of this Amendment, the Examiner's reconsideration and reexamination of the application, and the timely allowance of the pending claims.

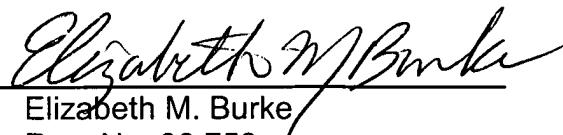
Please grant any extensions of time required to enter this response and charge any additional required fees to our Deposit Account No. 06-0916.

Respectfully submitted,

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Dated: January 17, 2006

By:


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